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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case Number *2013 - 755*

13 **SHERRIE LOREEN SHAFER**  
a.k.a. **SHERRIE CLARK**  
14 **2129 Castro Street**  
**Martinez, California 94553**

**A C C U S A T I O N**

15 **Registered Nurse License Number 308126**

16 Respondent.

17  
18 Complainant Louise R. Bailey, M.Ed., R.N., alleges:

19 **PARTIES**

- 20 1. Complainant brings this Accusation solely in her official capacity as the Executive  
21 Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs.
- 22 2. On or about September 30, 1979, the Board issued Registered Nurse License Number  
23 308126 to respondent Sherrie Loreen Shafer, a.k.a. Sherrie Clark. This registered nurse license  
24 was inactive from January 22, 2008 to December 31, 2010, and inactive/delinquent from January  
25 1, 2011 to March 27, 2011. It expired on December 31, 2012, and has not been renewed.

26 **JURISDICTION**

- 27 3. This Accusation is brought before the Board under the authority of the following  
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1           4.     Section 118, subdivision (b), provides:

2           “The suspension, expiration, or forfeiture by operation of law of a license issued by a board  
3 in the department, or its suspension, forfeiture, or cancellation by order of the board or by order  
4 of a court of law, or its surrender without the written consent of the board, shall not, during any  
5 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its  
6 authority to institute of continue a disciplinary proceeding against the licensee upon any ground  
7 provided by law or to enter an order suspending or revoking the license or otherwise taking  
8 disciplinary action against the licensee on any such ground.”

9           5.     Section 2750 provides:

10          “Every certificate holder or licensee, including licensees holding temporary licenses, or  
11 licensees holding licenses placed in an inactive status, may be disciplined as provided in this  
12 article [Article 3 of the Nursing Practice Act (Bus. & Prof. Code, § 2700 et seq.)]. As used in this  
13 article, ‘license’ includes certificate, registration, or any other authorization to engage in practice  
14 regulated by this chapter. The proceedings under this article shall be conducted in accordance  
15 with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the  
16 Government Code [the Administrative Procedure Act], and the board shall have all the powers  
17 granted therein.”

18          6.     Section 2764 provides:

19          “The lapsing or suspension of a license by operation of law or by order or decision of the  
20 board or a court of law, or the voluntary surrender of a license by a licentiate shall not deprive the  
21 board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding  
22 against such license, or to render a decision suspending or revoking such license.”

23                   **STATUTORY AND REGULATORY PROVISIONS**

24          7.     Section 2732 provides:

25          “No person shall engage in the practice of nursing, as defined in Section 2725, without  
26 holding a license which is in an active status issued under this chapter except as otherwise  
27 provided in this act.

28          ///

1 "Every licensee may be known as a registered nurse and may place the letters 'R. N.' after  
2 his name."

3 8. Section 2761 provides, in pertinent part:

4 "The board may take disciplinary action against a certified or licensed nurse or deny an  
5 application for a certificate or license for any of the following:

6 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

7 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing  
8 functions."

9 9. Section 2795 provides:

10 "Except as provided in this chapter, it is unlawful for any person to do any of the following:

11 "(a) To practice or to offer to practice nursing in this state unless the person holds a license  
12 in an active status.

13 "(b) To use any title, sign, card, or device to indicate that he or she is qualified to practice  
14 or is practicing nursing, unless the person has been duly licensed or certified under this chapter."

15 10. Section 2796 provides:

16 "It is unlawful for any person or persons not licensed or certified as provided in this chapter  
17 to use the title 'registered nurse,' the letters 'R.N. ,' or the words 'graduate nurse,' 'trained nurse,'  
18 or 'nurse anesthetist.'

19 "It is unlawful for any person or persons not licensed or certified as provided in this chapter  
20 to impersonate a professional nurse or pretend to be licensed to practice professional nursing as  
21 provided in this chapter."

22 11. California Code of Regulations, title 16, section 1442, provides:

23 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure  
24 from the standard of care which, under similar circumstances, would have ordinarily been  
25 exercised by a competent registered nurse. Such an extreme departure means the repeated failure  
26 to provide nursing care as required or failure to provide care or to exercise ordinary precaution in  
27 a single situation which the nurse knew, or should have known, could have jeopardized the  
28 client's health or life."

1 **COST RECOVERY**

2 12. Section 125.3 provides, in pertinent part:

3 “(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary  
4 proceeding before any board within the department or before the Osteopathic Medical Board  
5 upon request of the entity bringing the proceedings, the administrative law judge may direct a  
6 licentiate found to have committed a violation or violations of the licensing act to pay a sum not  
7 to exceed the reasonable costs of the investigation and enforcement of the case.

8 ...  
9 “(i) Nothing in this section shall preclude a board from including the recovery of the costs  
10 of investigation and enforcement of a case in any stipulated settlement.”

11 **FACTUAL BACKGROUND**

12 13. Christine Treadwell hired respondent in 2010 to provide home nursing care for her  
13 disabled husband. Respondent represented to Treadwell that she had inactive registered nursing  
14 licenses in Washington and California, but was getting her California license reactivated.  
15 Treadwell agreed to pay respondent the amount she would receive as a registered nurse, and  
16 respondent agreed to reactivate her California registered nursing license.

17 14. From about September 3, 2010, to January 15, 2011, respondent worked about 20-30  
18 hours per week caring for Treadwell’s husband. Her care included drawing blood, instructing  
19 unlicensed caregivers in tracheotomy care and other medical procedures, and taking orders from  
20 physicians. She also gave injections, suctioned his tracheotomy tube, and monitored vital signs.  
21 She affixed “RN” to her signature and represented herself as a registered nurse to doctors, other  
22 medical personnel, and the public during the time she did not hold an active California registered  
23 nursing license.

24 15. On or about January 15, 2011, Treadwell fired respondent because she had not yet  
25 obtained her California registered nursing license.

26 16. The Board interviewed respondent on or about May 4, 2012. Respondent admitted  
27 that she had drawn blood and performed the other medical procedures for Treadwell’s husband  
28 during the time she did not hold an active California registered nursing license. She stated that

1 she did not know that any of the medical procedures she performed could only be done with an  
2 active California registered nursing license.

3 **CAUSES FOR DISCIPLINE**

4 **FIRST CAUSE FOR DISCIPLINE**  
5 **Bus. & Prof. Code, §§ 2761, subd. (a)**  
6 **Unprofessional Conduct**

7 17. The allegations of paragraphs 13-16 are realleged and incorporated by reference as if  
8 fully set forth.

9 18. Respondent has subjected her license to disciplinary action under section 2761,  
10 subdivision (a), for unprofessional conduct. As set forth in paragraphs 13-16 above, respondent  
11 did not have an active California registered nursing license but represented that she could act in  
12 the capacity of a registered nurse, held herself out as a registered nurse, and affixed "RN" to her  
13 signature. She also performed procedures, including drawing blood, instructing unlicensed  
14 caregivers in tracheotomy care and other medical procedures, and taking orders from physicians,  
15 without having an active California registered nursing license.

16 **SECOND CAUSE FOR DISCIPLINE**  
17 **Bus. & Prof. Code, § 2761, subd. (a)(1)**  
18 **Unprofessional Conduct: Gross Negligence**

19 19. The allegations of paragraphs 13-16 are realleged and incorporated by reference as if  
20 fully set forth.

21 20. Respondent has subjected her license to disciplinary action under section 2761,  
22 subdivision (a), as defined by subdivision (a)(1) and California Code of Regulations, title 16,  
23 section 1442, for the unprofessional conduct of gross negligence. As set forth in paragraphs 13-  
24 16 above, respondent did not have an active California registered nursing license but represented  
25 that she could act in the capacity of a registered nurse, held herself out as a registered nurse, and  
26 affixed "RN" to her signature. She also performed procedures, including drawing blood,  
27 instructing unlicensed caregivers in tracheotomy care and other medical procedures, and taking  
28 orders from physicians, without having an active California registered nursing license.

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**THIRD CAUSE FOR DISCIPLINE**  
**Bus. & Prof. Code, § 2732**  
**Unlicensed Practice of Nursing**

21. The allegations of paragraphs 13-16 are realleged and incorporated by reference as if fully set forth.

22. Respondent has subjected her license to disciplinary action under section 2732 for the unlicensed practice of nursing. As set forth in paragraphs 13-16 above, respondent did not have an active California registered nursing license but represented that she could act in the capacity of a registered nurse, held herself out as a registered nurse, and affixed "RN" to her signature. She also performed procedures, including drawing blood, instructing unlicensed caregivers in tracheotomy care and other medical procedures, and taking orders from physicians, without having an active California registered nursing license.

**FOURTH CAUSE FOR DISCIPLINE**  
**Bus. & Prof. Code, § 2795, subd. (a)**  
**Unlicensed Practice of Nursing**

23. The allegations of paragraphs 13-16 are realleged and incorporated by reference as if fully set forth.

24. Respondent has subjected her license to disciplinary action under section 2795, subdivision (a), for the unlicensed practice of nursing. As set forth in paragraphs 13-16 above, respondent did not have an active California registered nursing license but represented that she could act in the capacity of a registered nurse and held herself out as a registered nurse. She also performed procedures, including drawing blood, instructing unlicensed caregivers in tracheotomy care and other medical procedures, and taking orders from physicians, without having an active California registered nursing license.

**FIFTH CAUSE FOR DISCIPLINE**  
**Bus. & Prof. Code, § 2795, subd. (b)**  
**Using Title of Registered Nurse While Unlicensed**

25. The allegations of paragraphs 13-16 are realleged and incorporated by reference as if fully set forth.

26. Respondent has subjected her license to disciplinary action under section 2795, subdivision (b), for using the title of registered nurse while unlicensed. As set forth in paragraphs

1 13-16 above, respondent did not have an active California registered nursing license but  
2 represented that she could act in the capacity of a registered nurse, held herself out as a registered  
3 nurse, and affixed "RN" to her signature.

4 **SIXTH CAUSE FOR DISCIPLINE**  
5 **Bus. & Prof. Code, § 2796**  
6 **Using Title of Registered Nurse While Unlicensed**

7 27. The allegations of paragraphs 13-16 are realleged and incorporated by reference as if  
8 fully set forth.

9 28. Respondent has subjected her license to disciplinary action under section 2796 for the  
10 unlicensed practice of nursing. As set forth in paragraphs 13-16 above, respondent did not have  
11 an active California registered nursing license but represented that she could act in the capacity of  
12 a registered nurse, held herself out as a registered nurse, and affixed "RN" to her signature.

13 **PRAYER**

14 WHEREFORE, complainant requests that a hearing be held on the matters alleged in this  
15 Accusation, and that following the hearing the Board issue a decision:

16 1. Revoking or suspending California Registered Nurse License Number 308126 issued  
17 to Sherrie Loreen Shafer, a.k.a. Sherrie Clark;

18 2. Ordering Sherrie Loreen Shafer, a.k.a. Sherrie Clark, to pay the Board of Registered  
19 Nursing the reasonable costs of the investigation and enforcement of this case pursuant to  
20 Business and Professions Code section 125.3; and

21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: MARCH 14, 2013

23 *for* *Aime Ben*  
24 LOUISE R. BAILEY, M.Ed., R.N.  
25 Executive Officer  
26 Board of Registered Nursing  
27 Department of Consumer Affairs  
28 State of California  
Complainant

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